

**SECTION 1135
PROJECT MODIFICATION REPORT**

**PEANUT ISLAND
PALM BEACH COUNTY, FLORIDA**

**APPENDIX G
REAL ESTATE SUPPLEMENT**

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**EXHIBIT "A" REAL ESTATE COMMENTS AND RECOMMENDATIONS FOR
LEASE AGREEMENTS FOR PEANUT ISLAND**

PLATE G-1 REAL ESTATE PLANNING MAP

Revised 4/11/00 ct

1. STATEMENT OF PURPOSE

This Real Estate Plan is tentative in nature for planning purposes only and both the final real property acquisition lines and the real estate cost estimates provided are subject to change even after approval of the Project Modification Report.

2. AUTHORIZATION

This feasibility study was performed under the authority of Section 1135 of the Water Resources Development Act (WRDA) of 1986, Public Law (PL) 99-662, as amended by the Water Resources Development Act of 1990. The act reads, in part, as follows:

"The Secretary is authorized to review the operation of water resources projects constructed by the Secretary (Corps built projects) to determine the need for modifications in the structures and operation of such projects for the purpose of improving the quality of the environment in the public interest."

3. PROJECT DESCRIPTION

a. Peanut Island lies within the north-central Lake Worth Lagoon, Section 34, Township 42 South, Range 43 East, Palm Beach County, Florida. Peanut Island is bordered to the east by the Lake Worth Inlet and to the west by the Intracoastal Waterway and the Port of Palm Beach.

b. The recommended plan consists of removing exotic vegetation and dredged material deposits to create a shallow-water reef habitat and adjacent shallow-water lagoon (east); create a maritime hammock with bordering transitional vegetative zone to augment wetland and upland vegetation; and restore an existing mangrove wetland by creation of an inlet, tidal pond, flushing channels, and contiguous shallow-water lagoon (west). The proposed project modification to create wetland and upland areas will allow for the removal of exotic vegetation to be chipped and used as mulch on site. The mulch will cover cleared ground to help reduce weed growth and to help retain moisture around newly planted vegetation. The environmental restoration of Peanut Island will considerably increase habitat and food supply to support local fisheries and wildlife. This area consists of approximately 36 acres.

4. SPONSOR OWNED LANDS

a. Federal

There are no Federally owned lands within the project limits.

b. Non-Federal

The non-Federal sponsor, Palm Beach County, owns 3.6 acres on the north end of Peanut Island; however, the lands are outside the project limits.

5. ESTATES

a. No standard estates are required for this project as navigation servitude will be exercised.

b. Non-Standard Estates

The non-Federal sponsor, Palm Beach County, has lease agreements with the Port of Palm Beach District and the Florida Inland Navigation District for development of Peanut Island's perimeter. It is proposed that the leases will be amended as certain provisions contained in the lease agreements are unacceptable conditions for the purpose of this project; or the Lessors will approve the project and provide assurances that the leases will not be terminated. Real Estate comments and recommendations are contained in Exhibit "A" to this appendix. Copies of the lease agreements are found in Appendix F of the Project Modification Report.

6. NAVIGATION SERVITUDE

a. Peanut Island was created as a result of material deposits excavated from numerous dredge projects that began in 1918 with creation of the Lake Worth Inlet and continued with subsequent maintenance of the Palm Beach Harbor Navigation Project. Therefore, the entire island is within the navigation servitude for which the Federal Government has paramount jurisdiction, negating the need for the acquisition of any additional interest to proceed with construction of the project. ER 405-1-12, Chapter 12, paragraph 12-38f, states that "In no event shall credit be afforded for lands that are available to the project through exercise of the navigation servitude." Based on that guidance, the non-Federal sponsor shall not receive credit for the value of lands required.

b. As stated in paragraph 6.a. above, additional real estate interests are not required. However, Palm Beach County has lease agreements with the Port

of Palm Beach District and the Florida Inland Navigation District for development of Peanut Island's perimeter. It is proposed that the lease agreements be amended as certain provisions contained in the lease agreements are unacceptable conditions for the purpose of this project. A real estate cost is included in the M-CACES to cover real estate planning costs of \$20,000.

7. PROJECT MAP

A real estate planning map is included as Plate G-1.

8. INDUCED FLOODING

There will be no induced flooding directly associated with this project.

9. REAL ESTATE BASELINE COST ESTIMATE

Lands and Damages:	\$0
Acquisition/Administrative Costs	
Federal Project Planning	\$16,000
Total Acquisition/Administrative Costs	\$16,000
Contingencies (25%) (Rd)	<u>\$ 4,000</u>
Total Estimated Real Estate Costs	\$20,000

10. RELOCATION ASSISTANCE BENEFITS

There are no persons or businesses to be relocated as a result of this project.

11. MINERALS

No known minerals exist in the project area.

12. NON-FEDERAL SPONSOR'S AUTHORITY TO PARTICIPATE

The non-Federal sponsor is Palm Beach County, Florida. Counties of Florida are empowered by Florida Statute 125.001 to "Establish and administer programs of...flood and beach erosion control...navigation and drainage..." By Chapter 127, counties are empowered to exercise eminent domain powers for any county purpose excepting certain restrictions applicable to recreational projects.

13. REAL ESTATE MILESTONES

Land certification is not required from Project Sponsor since navigation servitude will be exercised.

14. RELOCATIONS OF ROADS, BRIDGES, UTILITIES, TOWNS AND CEMETERIES

There are two Florida Power and Light utility poles to be relocated as a result of this project. The two utility poles will be relocated within the existing right-of-way. An Attorney's Opinion of Compensability will be prepared prior to construction of the project.

15. PRESENCE OF CONTAMINANTS (HAZARDOUS, TOXIC AND RADIOACTIVE WASTES)

A site audit for hazardous, toxic, and radioactive waste material was performed by Palm Beach County Department of Environmental Resources Management with negative results. The site audit included a site visit and research of historical data.

16. ATTITUDE OF LANDOWNERS

Project lands are owned by Florida Inland Navigation District and Port of Palm Beach District. Those agencies fully support the project.

17. M-CACES FOR REAL ESTATE

01 Lands & Damages

01AA Project Planning \$ 16,000

TOTAL REAL ESTATE COST EXCLUDING
CONTINGENCY \$16,000

REAL ESTATE CONTINGENCY (25%) COST RD \$ 4,000

TOTAL PROJECT REAL ESTATE COST \$20,000

EXHIBIT "A"
APPENDIX G REAL ESTATE SUPPLEMENT
REAL ESTATE COMMENTS AND RECOMMENDATIONS
FOR LEASE AGREEMENTS FOR PEANUT ISLAND

**1. LEASE AGREEMENT BETWEEN PALM BEACH COUNTY (County) AND
FLORIDA INLAND NAVIGATION DISTRICT (FIND):**

a. Paragraph 6. Term: The lease is for a period of 30 years with one automatic renewal option of 25 years. Normally for environmental restoration projects per ER 1105-2-100 paragraph 8c, fee title is the required estate. Use of an interest less than fee for any permanent project modification purpose must be approved by HQ Real Estate pursuant to ER 405-1-12.

b. Paragraph 7. Purpose: County is to use premises only for establishment and operation of a county park to provide for passive public outdoor recreation, boating use, and restoration and enhancement of water resources and related environmental values of Lake Worth Estuary. See comment 1i below.

c. Paragraph 8. Quiet Enjoyment and Right of Use: County's rights cannot conflict with intent of FIND's Dredge Material Management Program. See comment 1i below.

d. Paragraph 10. Assignment: Lease cannot be assigned without prior written consent of FIND. See comment 1i below.

e. Paragraph 11.1. Master Plan: Master Plan has to be submitted to FIND's Board of Commissioner for approval. See comment 1i below.

f. Paragraph 11.2. Operational Management Plan: County is required to develop and implement an Operational Management Plan. FIND has to approve the plan. See comment 1i below.

g. Paragraph 15. Placement and Removal of Improvements: The provision prohibits removal of trees, other than non-native species, or major land alterations without prior written approval of FIND. See comment 1i below.

h. Paragraph 24. Break of Covenants, Terms or Conditions: In the event of breach of lease terms, FIND can terminate lease. This is unacceptable. This provision must be modified or changed.

i. It is recommended that Palm Beach County obtain a letter from FIND which provides that FIND has reviewed the Project Modification Report (PMR) for

Peanut Island, Palm Beach County, Florida, dated July 1998, prepared by Palm Beach County, and that the proposed plan contained in the PMR is acceptable and approved by FIND. The letter should also provide that the lease or rights under the lease can be assigned to the U.S. Army Corps of Engineers or its contractors, that the proposed plan does not conflict with FIND's Dredge Material Management Program, and that the land alterations are approved.

2. LEASE AGREEMENT BETWEEN PALM BEACH COUNTY (County) AND THE PORT OF PALM BEACH DISTRICT (Port):

a. Paragraph 6. Term: The lease is for a period of 30 years with one automatic renewal option of 25 years. Normally for environmental restoration projects per ER 11105-2-100 paragraph 8c, fee title is the required estate. Use of an interest less than fee for any permanent project modification purpose must be approved by HQ Real Estate pursuant to ER 405-1-12.

b. Paragraph 7. Purpose: County is to use premises only for establishment and operation of a county park to provide for passive public outdoor recreation, boating use, and protection and enhancement of the public use of local water resources. See comment 2h below.

c. Paragraph 10. Assignment: Lease cannot be assigned without prior written consent of Port. See comment 2h below.

d. Paragraph 11.1. Master Plan: Master plan has to be submitted to Port's Board of Commissioner for approval. See comment 2h below.

e. Paragraph 11.2. Operational Management Plan: County required to develop and implement an Operational Management Plan. Port has to approve the plan. See comment 2h below.

f. Paragraph 15. Placement and Removal of Improvements: The provision prohibits removal of trees, other than non-native species, or major land alterations without prior written approval of Port. See comment 2h below.

g. Paragraph 24. Break of Covenants, Terms or Conditions: In the event of breach of lease terms, Port can terminate lease. This is unacceptable. This provision must be modified or changed.

h. It is recommended that Palm Beach County obtain a letter from the Port which provides that the Port has reviewed the Project Modification Report (PMR) for Peanut Island, Palm Beach County, Florida, dated July 1998, prepared by Palm Beach County, and that the proposed plan contained in the PMR is acceptable and approved by the Port. The letter should also provide that the

lease or rights under the lease can be assigned to the U.S. Army Corps of Engineers or its contractors and that the land alterations are approved.



